

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1715 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE R.R.JAIN

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1. Whether Reporters of Local Papers may be allowed to see the judgements? No
2. To be referred to the Reporter or not? No

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3. Whether Their Lordships wish to see the fair copy of the judgement? No
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? No
5. Whether it is to be circulated to the Civil Judge? No

HEIRS & LEGAL REPRESENTATIVES OF DECEASED BHAILALBHAI

Versus

STATE OF GUJARAT

Appearance:

MR PM BHATT for Petitioners
SERVED BY DS for Respondent No. 1
MR MD PANDYA for Respondent No. 3

CORAM : MR.JUSTICE R.R.JAIN

Date of decision: 21/03/97

ORAL JUDGEMENT

Aggrieved by the impugned notice dated 31.10.1995
Annexure-B at page 18 issued by the Deputy Secretary,
Revenue Department, Government of Gujarat in exercise of
powers under Section 34 of the Urban Land (Ceiling and

Regulation) Act, 1976 (the Act for brief), the petitioners have preferred this petition under Article 227 of the Constitution of India. The petitioners have challenged the notice on the ground that the respondent authority has no power to exercise revisional powers under Section 34 of the Act in a case where an appeal preferred under Section 33 of the Act and has been disposed of. To appreciate the contention, the facts giving rise to this petition are briefly stated as under. The Competent Authority passed appropriate order on 11.11.1987. Aggrieved by the order, the petitioners landholder preferred an appeal under Section 33 of the Act before the Tribunal and the same was disposed of on 21.12.1993 Annexure-A. Despite this fact, after lapse of about two years, the respondent authority decided to exercise revisional powers under Section 34 of the Act and issued the impugned notice Annexure-B on 31.10.1995.

2. Heard Mr.Bhatt for the petitioners and Mr.Sompura, learned A.G.P. for the respondent - State. It is very clear from reading of Section 34 of the Act that exercise of powers can be resorted to by the State Government on its own motion by calling the record of any order passed or the proceedings taken under any of the provisions of the U.L.C.Act against which no appeal has been preferred. In this case, admittedly, an appeal was preferred by the petitioners and the same has been disposed of on 21.12.1993. Thus, on bare reading of Section 34 of the Act it becomes abundantly clear that, once an appeal has been preferred against an order passed under any of the provisions of the U.L.C. Act, the State Government has no powers to call for the record and exercise suo motu revisional powers under Section 34 of the Act. Any such act would be de hors the provisions of law and without jurisdiction. On this point, I am fortified by a decision of this court reported in 1996 (2) Gujarat Law Reporter at page 499. Therefore, the submission of the learned A.G.P. Mr.Sompura that the same contention could be raised before appropriate authority cannot be accepted. Hence the impugned notice is required to be quashed. The petition is allowed. The impugned notice dated 31.10.1995 Annexure-B is hereby quashed and set aside. Rule is accordingly made absolute with no order as to costs.

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